



ARIZONA DEPARTMENT OF ECONOMIC SECURITY
1789 W. Jefferson P.O. Box 6123, Phoenix, AZ 85005

Janet Napolitano
Governor

David Berns
Director

April 24, 2006

WIA Guidance Letter #04-06, Revision I

SUBJECT: WIA Title IB Fraud and Abuse Policy of the Workforce Investment Act

REFERENCES: P.L. 105-220 Sections 184 and 188; 20 CFR Sections 667.500; 667.505; 667.510 and 667.630 and Office of Management and Budget (OMB) Circular A-133

BACKGROUND: Any abuse of Workforce Investment Act (WIA) funds, whether it is criminal fraud, waste, or non-criminal gross mismanagement of funds, must be reported immediately to the Office of Inspector General (OIG), through the U.S. Department of Labor's (DOL) Incident Reporting System and be concurrently reported to the Arizona State Attorney General's Office and with the WIA Section. The Employment Administration/WIA Section (EA/WIA Section) requires that each sub-recipient shall establish internal procedures for the prevention and detection of fraud, abuse and criminal activity. Resolution of nondiscrimination findings will be resolved in accordance with WIA investigations, monitoring and oversight review. Therefore, the following definitions and policy are established. See Fraud and Abuse Definitions, Policy and Procedure attachment.

PURPOSE: All Local Workforce Investment Boards (LWIB)/Grantees are required to notify their employees of the availability of the OIG/DOL Hotline to report information, confidentially. The Local Workforce Investment Area (LWIA) Directors are to inform and provide direction to their staff and LWIB members, as well as, contracted service providers with the policy and procedures regarding the reporting requirements specific to fraud, abuse, and criminal acts against WIA funds. This directive ensures that allegations of criminal activity and misuse of WIA grant funds as well as, improper conduct by a staff, or board member, are concurrently reported to the OIG/DOL and the Arizona State Attorney General's Office.

ACTION REQUIRED: All LWIAs and their sub-recipients shall establish internal procedures for the prevention and detection of fraud, abuse and criminal activity. This Guidance Letter and its attachments shall be distributed to all individuals responsible for WIA grant funds, LWIB Members and sub-recipients.

For questions or assistance related to this policy, please contact Roderic (Rod) Webb, Fiscal Manager, Employment Administration/WIA Section at (602) 542-3957 or e-mail at RLWebb@azdes.gov .

All WIA Guidance Letters are posted on our website at <http://www.azdes.gov/wia>.

Sincerely,

A handwritten signature in black ink that reads "Lela Alston". The signature is written in a cursive, flowing style.

Lela Alston, Manager
WIA Section
Employment Administration

Attachment: Fraud and Abuse Definitions, Policy and Procedures Section

Fraud and Abuse Definitions, Policy and Procedures Employment Administration

This document was prepared to address the requirement of WIA Regulation 20 CFR 667.630 information and complaints involving criminal fraud, waste, abuse or other criminal activity.

DEFINITIONS:

Fraud: Fraud is any deceitful act or omission or willful device used with the intent to obtain some unjust advantage for one party or to cause an inconvenience or loss to another party. Types of fraud include embezzlement, forgery, theft, solicitation and receipt of bribes (kickbacks), and falsification of records and claims regarding trainees (e.g., knowingly enrolling ineligible participants). Criminal fraud is a type of larceny and is punishable under both federal and Arizona law as a felony. Civil fraud is subject to tort actions under civil laws.

Misapplication of Funds: is defined as any use of funds, assets, or property not authorized or provided for in the grant or contract. This category includes, but is not limited to, nepotism, political patronage, use of participants for political activity, intentional services to ineligible enrollees, conflict of interest, failure to report income derived from federal funds, violation of contract provisions, maintenance of effort violations, and the use of the Workforce Investment Act funds for other than WIA purposes.

Gross Mismanagement: is defined as actions or situations arising out of management ineptitude or lack of oversight, which lead to a major violation of contract provisions and/or which severely hamper accomplishment of program goals. These include situations, which lead to waste of government resources and put into serious jeopardy future support for a particular project. This category includes, but is not limited to, unauditable records, unsupported costs, highly inaccurate fiscal and/or program reports, payroll discrepancies, payroll deductions not paid to the Internal Revenue Service or the State of Arizona and the lack of internal control procedures.

Employee/Participant Misconduct: should be considered as actions occurring during or outside work hours that reflect negatively on the program or its purpose. These may include, but are not limited to, conflict of interest involving outside employment, business and professional activities, the receipt of gifts, fees, entertainment, and favors; misuse of federal property; misuse of official information; and, other activities that might adversely affect the confidence of the public regarding the integrity of government funds.

Lower-Tier Sub-recipient: means a recipient that does not receive WIA funds directly from the State of Arizona. They are defined as contracted service providers for purposes of this policy.

Maintenance of Effort: is defined to mean that any participant (including partial displacement such as reduction in the hours of non-overtime work, wages or employment benefits) shall not displace currently employed worker. No participant shall be employed or job opening filled when: 1.) any other individual is on layoff from the same or any equivalent job. 2.) The employer has terminated the employment of any regular employee or otherwise reduced its workforce with the intention of filling the vacancy created by hiring a participant whose wages are subsidized under the WIA.

Fraud and Abuse Definitions, Policy and Procedures Employment Administration/WIA Section

Sub-recipient: for this policy, means the Economic Development Agency as the Local Workforce Investment Area (LWIA), who receives WIA funds directly from the state.

Standard of Conduct Violations: Violations of terms and conditions are generally required in federal agreements. A violation is considered evident when the following General Assurances are not met. Every reasonable course of action will be taken in order to maintain the integrity of expenditures of public funds to avoid any favoritism, questionable or improper conduct. Federal funds are administered in an impartial manner, free from personal, financial or political gain. Executive staff and employees will avoid situations, which give rise to a suggestion that any decision was influenced by prejudice, bias, special interest or personal gain.

Tort: Tort is defined as damage, injury, or a wrongful act done willfully, negligently, or in circumstances involving strict liability, but not involving breach of contract, for which a civil suit can be brought.

Conducting Business Involving Relatives: No relative by blood, adoption or marriage of any executive or employee will receive favorable treatment for enrollment in services provided by or employment with, the contractor. For the purpose of this agreement, "relative by blood or marriage" shall include wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent and stepchild.

Avoidance of Conflict of Economic Interest: An executive or employee of a federal funded agreement or an elected official in the LWIA will not solicit or accept money or any other consideration from a third person for the performance of an act. Reimbursements in whole or in part by the Employment Administration/WIA Section for supplies, materials, equipment or services purchased with sub grant funds will be used solely for purposes allowed by the Federal Workforce Investment Act.

Whistle Blower: Under U.S. law, a whistle blower (or whistleblower) is an employee who "tells" on an employer; because he or she reasonably believed that the employer committed an illegal act.

POLICY:

This policy requires that incidents of fraud, waste, abuse or other criminal activity be reported through the incident reporting to the Department of Labor and concurrently to the Arizona State Attorney General's Office (AZAG) and with the WIA Section. All staff and contracted service providers shall include a system of internal controls which:

- ensure resource use is consistent with laws, regulations and policies
- are safe guarded against waste, loss and gross mismanagement of funds
- are alerted to the potential of fraud, abuse or criminal acts in the WIA programs through conflicts of interest, falsification of records or reports and misappropriation of funds or other assets
- are aware of obligations to report such activities.

Fraud and Abuse Definitions, Policy and Procedures Employment Administration

PROCEDURES:

Reporting of Fraud & Abuse: Information and complaints involving criminal fraud, waste, abuse or other criminal activity by a LWIA or staff, must be reported immediately. Reports are made through the Department's Incident Reporting System to the DOL Office of Inspector General (OIG), Office of Investigations or to the corresponding Regional Inspector General for Investigations, with a copy simultaneously provided to both the Arizona State Attorney General's Office (AZAG) and with the WIA Section.

The OIG/DOL Hotline Number is 1-800-347-3756

Office of Inspector General/ US Department of Labor

Room S5514

200 Constitution Avenue NW

Washington D.C. 20210

Fax number (202)-693-5210

E-mail notifications can be made to the OIG at www.oig.dol.gov/hotnet1.htm

Arizona Attorney General

1275 W. Washington Street

Phoenix, Arizona 85007

Phone number (602) 542-5025

E-mail notifications can be made to the ASAG at ag.inquiries@azag.gov

Employment Administration/WIA

1789 West Jefferson Street, Site Code 920Z

Phoenix, Arizona 85007

Phone number (602) 542-2957

E-mail notifications can be made to the Fiscal Manager at RLWebb@azdes.gov

All grantees/contractors staff or employees with allegations of fraud, waste, or abuse, should be advised to contact OIG directly, particularly if they want to protect their anonymity. The U.S. Department of Labor (DOL) and its divisions enforce laws that directly protect whistle blowers or have provisions to shield employees from retaliation, for reporting violations of the laws, refusing to engage in any action made unlawful by the laws, or participating in any proceedings under the laws.

Questions about or complaints alleging a violation of the nondiscrimination provisions of WIA section 188 may be directed or mailed to the Director, Civil Rights Center (CRC), U.S. Department of Labor.

Director, CRC/DOL

Room N4123

200 Constitution Avenue, NW

Washington, D.C. 20210